

103D CONGRESS  
1ST SESSION

# H. R. 2023

To amend the Internal Revenue Code of 1986 to modify the treatment of governmental plans under the rules governing retirement plans.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 1993

Mr. MATSUI (for himself, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. COYNE, Mr. ANDREWS of Texas, Mr. LEVIN, Mr. CARDIN, Mr. McDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. PAYNE of Virginia, Mr. NEAL of Massachusetts, Mr. HOAGLAND, Mr. McNULTY, Mr. KOPETSKI, Mr. JEFFERSON, Mr. BREWSTER, Mr. REYNOLDS, Mr. ARCHER, Mr. CRANE, Mr. THOMAS of California, Mr. SHAW, Mr. SUNDQUIST, Mrs. JOHNSON of Connecticut, Mr. BUNNING, Mr. HOUGHTON, Mr. BEREUTER, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the treatment of governmental plans under the rules governing retirement plans.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Pension Equity  
5 Restoration Act of 1993”.

1 **SEC. 2. TREATMENT OF GOVERNMENTAL PLANS UNDER**  
2 **SECTION 415.**

3 (a) DEFINITION OF COMPENSATION.—Subsection (k)  
4 of section 415 of the Internal Revenue Code of 1986 (re-  
5 garding limitations on benefits and contributions under  
6 qualified plans) is amended by adding immediately after  
7 paragraph (2) thereof the following new paragraph:

8 “(3) DEFINITION OF COMPENSATION FOR GOV-  
9 ERNMENTAL PLANS.—For purposes of this section,  
10 in the case of a governmental plan (as defined in  
11 section 414(d)), the term ‘compensation’ includes, in  
12 addition to the amounts described in subsection  
13 (c)(3)—

14 “(A) any elective deferral (as defined in  
15 section 402(g)(3)), and

16 “(B) any amount which is contributed by  
17 the employer at the election of the employee  
18 and which is not includible in the gross income  
19 of an employee under section 125 or 457.”

20 (b) COMPENSATION LIMIT.—Subsection (b) of sec-  
21 tion 415 of such Code is amended by adding immediately  
22 after paragraph (10) the following new paragraph:

23 “(11) SPECIAL LIMITATION RULE FOR GOVERN-  
24 MENTAL PLANS.—In the case of a governmental  
25 plan (as defined in section 414(d)), subparagraph  
26 (B) of paragraph (1) shall not apply.”

1 (c) TREATMENT OF CERTAIN EXCESS BENEFIT  
2 PLANS.—

3 (1) IN GENERAL.—Section 415 of such Code is  
4 amended by adding at the end thereof the following  
5 new subsection:

6 “(m) TREATMENT OF QUALIFIED GOVERNMENTAL  
7 EXCESS BENEFIT ARRANGEMENTS.—

8 “(1) GOVERNMENTAL PLAN NOT AFFECTED.—

9 In determining whether a governmental plan (as de-  
10 fined in section 414(d)) meets the requirements of  
11 this section, benefits provided under a qualified gov-  
12 ernmental excess benefit arrangement shall not be  
13 taken into account. Income accruing to a govern-  
14 mental plan (or to a trust that is maintained solely  
15 for the purpose of providing benefits under a quali-  
16 fied governmental excess benefit arrangement) in re-  
17 spect of a qualified governmental excess benefit ar-  
18 rangement shall constitute income derived from the  
19 exercise of an essential governmental function upon  
20 which such governmental plan (or trust) shall be ex-  
21 empt from tax under section 115.

22 “(2) TAXATION OF PARTICIPANT.—For pur-  
23 poses of this chapter—

24 “(A) the taxable year or years for which  
25 amounts in respect of a qualified governmental

1 excess benefit arrangement are includible in  
2 gross income by a participant, and

3 “(B) the treatment of such amounts when  
4 so includible by the participant,  
5 shall be determined as if such qualified govern-  
6 mental excess benefit arrangement were treated as a  
7 plan for the deferral of compensation which is main-  
8 tained by a corporation not exempt from tax under  
9 this chapter and which does not meet the require-  
10 ments for qualification under section 401.

11 “(3) QUALIFIED GOVERNMENTAL EXCESS BEN-  
12 EFIT ARRANGEMENT.—For purposes of this sub-  
13 section, the term ‘qualified governmental excess ben-  
14 efit arrangement’ means a portion of a governmental  
15 plan if—

16 “(A) such portion is maintained solely for  
17 the purpose of providing to participants in the  
18 plan that part of the participant’s annual bene-  
19 fit otherwise payable under the terms of the  
20 plan that exceeds the limitations on benefits im-  
21 posed by this section,

22 “(B) under such portion no election is pro-  
23 vided at any time to the participant (directly or  
24 indirectly) to defer compensation, and

1           “(C) benefits described in subparagraph  
2           (A) are not paid from a trust forming a part  
3           of such governmental plan unless such trust is  
4           maintained solely for the purpose of providing  
5           such benefits.”

6           (2) COORDINATION WITH SECTION 457.—Sub-  
7           section (e) of section 457 of such Code is amended  
8           by adding at the end thereof the following new para-  
9           graph:

10           “(15) TREATMENT OF QUALIFIED GOVERN-  
11           MENTAL EXCESS BENEFIT ARRANGEMENTS.—Sub-  
12           sections (b)(2) and (c)(1) shall not apply to any  
13           qualified governmental excess benefit arrangement  
14           (as defined in section 415(m)(3)), and benefits pro-  
15           vided under such an arrangement shall not be taken  
16           into account in determining whether any other plan  
17           is an eligible deferred compensation plan.”

18           (3) CONFORMING AMENDMENT.—Paragraph (2)  
19           of section 457(f) of such Code is amended by strik-  
20           ing the word “and” at the end of subparagraph (C),  
21           by striking the period after subparagraph (D) and  
22           inserting the words “, and”, and by inserting imme-  
23           diately thereafter the following new subparagraph:

24           “(E) a qualified governmental excess bene-  
25           fit arrangement described in section 415(m).”

1 (d) EXEMPTION FOR SURVIVOR AND DISABILITY  
2 BENEFITS.—Paragraph (2) of section 415(b) of such  
3 Code is amended by adding at the end thereof the follow-  
4 ing new subparagraph:

5 “(I) EXEMPTION FOR SURVIVOR AND DIS-  
6 ABILITY BENEFITS PROVIDED UNDER GOVERN-  
7 MENTAL PLANS.—Subparagraph (B) of para-  
8 graph (1), subparagraph (C) of this paragraph,  
9 and paragraph (5) shall not apply to—

10 “(i) income received from a govern-  
11 mental plan (as defined in section 414(d))  
12 as a pension, annuity, or similar allowance  
13 as the result of the recipient becoming dis-  
14 abled by reason of personal injuries or  
15 sickness, or

16 “(ii) amounts received from a govern-  
17 mental plan by the beneficiaries, survivors,  
18 or the estate of an employee as the result  
19 of the death of the employee.”

20 (e) REVOCATION OF GRANDFATHER ELECTION.—  
21 Subparagraph (C) of section 415(b)(10) of such Code is  
22 amended by adding at the end thereof the following new  
23 sentence: “An election made pursuant to the preceding  
24 sentence to have the provisions of this paragraph applied  
25 to the plan may be revoked not later than the last day

1 of the 3rd plan year beginning after the date of enactment  
2 with respect to all plan years as to which such election  
3 has been applicable and all subsequent plan years: *Pro-*  
4 *vided*, That any amount paid by the plan in a taxable year  
5 ending after revocation of such election in respect of bene-  
6 fits attributable to a taxable year during which such elec-  
7 tion was in effect shall be includible in income by the re-  
8 cipient in accordance with the rules of this chapter in the  
9 taxable year in which such amount is received (except that  
10 such amount shall be treated as received for purposes of  
11 the limitations imposed by this section in the earlier tax-  
12 able year or years to which such amount is attributable).''

13 (f) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by  
15 subsections (a), (b), (c), and (d) shall apply to tax-  
16 able years beginning on or after the date of the en-  
17 actment of this Act. The amendments made by sub-  
18 section (e) shall apply with respect to election rev-  
19 ocations adopted after the date of the enactment of  
20 this Act.

21 (2) TREATMENT FOR YEARS BEGINNING BE-  
22 FORE DATE OF ENACTMENT.—In the case of a gov-  
23 ernmental plan (as defined in section 414(d) of the  
24 Internal Revenue Code of 1986), such plan shall be  
25 treated as satisfying the requirements of section 415

- 1 of such Code for all taxable years beginning before
- 2 the date of the enactment of this Act.

